

(2013) 11 P&H CK 0051

High Court Of Punjab And Haryana At Chandigarh

Case No: CM No. 22826-CII of 2013 in/and CR No. 6497 of 2013 (O and M)

Manpreet Kaur

APPELLANT

Vs

Navdeep Kaur

RESPONDENT

Date of Decision: Nov. 21, 2013

Hon'ble Judges: Rakesh Kumar Garg, J

Bench: Single Bench

Advocate: T.P.S. Tung, for the Appellant; B.B. Bagga, for the Respondent

Final Decision: Dismissed

Judgement

Rakesh Kumar Garg, J.

This is tenant's revision petition challenging the order dated 21.3.2012 of the Rent Controller, SAS, Nagar, Mohali, whereby eviction of the petitioner has been ordered on the ground of personal necessity of the respondent-landlady. Further challenge has been made to the judgment dated 9.10.2013 of the Appellate Court whereby the findings of the Rent Controller have been affirmed and appeal of the tenant against the aforesaid order of eviction has been dismissed. The instant petition challenging the aforesaid orders, came up for hearing before this Court on 28.10.2013.

2. On that day, counsel representing the caveator-respondent brought to the notice of this Court that possession of the demised premises has already been taken.

3. Noticing the aforesaid fact, this Court passed the following order on 28.10.2013:

At the outset, counsel for the respondent-landlady has submitted before this Court that possession of the demised premises has been taken over.

Let the records of the Courts below as well as the executing Court be called for.

List on 21.11.2013.

In the meantime, the parties shall not change the nature of the suit property.

4. Today an application i.e. CM No. 22826-CII of 2013 has been filed on behalf of the tenant-petitioner to place on record an order dated 23.10.2013 passed by the Executing Court. The application is allowed and the order is taken on record. The said order dated 23.10.2013 reads thus:

Copy of receipts have been placed on file by the Ld. Counsels for JD. The application u/s 151 CPC has been filed by DH alleging that the appellate authority has dismissed the appeal vide order dated 9.10.13 and praying for issuance of warrants of possession. Ld. Counsel for JD has requested for adjournment as he wants to approach the Hon"ble High Court against the dismissal of appeal. Since there is no stay on the proceedings of the present execution and the appellate authority had dismissed the appeal of the JD, therefore, warrants of possession be issued for 7.12.13 with the direction that in case any stay order is produced by the JD then the warrants shall not be executed and the copy of the order shall be placed along with warrants and be returned to this Court.

5. Learned counsel for the petitioner has further very fairly stated that in furtherance of the aforesaid order, the respondent-landlady has taken possession of the demised premises on 25.10.2013.

6. However, he has further submitted before this Court that the order dated 23.10.2013 passed by the Executing Court is illegal and the warrants of possession could not have been ordered against the petitioner as the aforesaid order has been passed on an execution application, filed by the respondent-landlady during the pendency of the appeal before the Appellate Authority and by that time the order of eviction passed by the Rent Controller was stayed by the Appellate Authority and thus, according to him, the possession could not have been taken from the petitioner and according to him, the execution application itself was not maintainable.

7. Be that as it may, the aforesaid order passed against the petitioner whereby possession has been taken from him, has not been challenged before this Court. Simply because an order has been placed on record of this petition does not mean that the petitioner has challenged the said order before this Court. The remedy of the petitioner against any alleged illegal order passed for taking possession of the demised premises lies somewhere else and not in the instant revision petition.

8. The instant revision petition has been filed by the petitioner challenging the findings of the Rent Controller as well as the Appellate Authority with regard to eviction orders passed against her. However, even at the asking of the Court, learned counsel for the petitioner has not addressed the arguments in main petition with regard to the findings of the Rent Controller as well as of Appellate Authority with regard to personal necessity of the respondent-landlady.

9. In view thereof, this Court has no option but to dismiss this petition as no arguments have been addressed to challenge the findings of the Rent Controller as

well as of the Appellate Authority with regard to personal bona fide necessity of the respondent.

In view of the aforesaid, I find no merit in this petition.

Dismissed.